

PROVIDING PENALTIES FOR THE ASSASSINATION OF
THE PRESIDENT

JULY 21, 1965.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 6097]

The Committee on the Judiciary, to which was referred the bill (H.R. 6097) to amend title 18, United States Code, to provide penalties for the assassination of the President or the Vice President, and for other purposes, having considered the same, reports favorably thereon, with amendments, and recommends that the bill as amended do pass.

AMENDMENTS

Amendment No. 1: On page 3, line 16, strike the word "preclude" and insert in lieu thereof the word "suspend".

Amendment No. 2: On page 3, lines 17, 18, and 19, strike the words "to such extent as the Attorney General of the United States shall direct." and insert in lieu thereof the words "until Federal action is terminated.".

Amendment No. 3: On page 3, after line 19, add the following new subsection:

(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

PURPOSE OF AMENDMENTS

Amendments No. 1 and No. 2. The purpose of these amendments is to provide that if Federal jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority under any applicable State or local law until Federal action is terminated. This would insure clear Federal

jurisdiction in the investigation and prosecution of Presidential assailants by providing for unimpeded Federal jurisdiction to the extent necessary. However, suspension does not imply that the States cannot cooperate with the Federal authorities during the course of any investigation pursuant to this legislation.

Amendment No. 3. The purpose of amendment No. 3 is to make clear that the Federal Bureau of Investigation shall have jurisdiction over the investigation of violations of this act, and in the investigation of such violations may avail itself of the assistance of any Federal, State, or local agency, including the services of the Army, the Navy, and the Air Force, any statute, rule, or regulation to the contrary notwithstanding.

PURPOSE

The purpose of the proposed legislation, as amended, is to rectify the omission in Federal law by making it a Federal crime to kill, kidnap, or assault the President, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President. In addition, it makes it a Federal crime to attempt, or to conspire, to kill, or kidnap any of the individuals designated.

STATEMENT

There was no Federal criminal jurisdiction with respect to the assassination of the President on November 22, 1963. It is anomalous that Congress has legislated in other ways to protect the safety of the Chief Executive and other Federal officers, but has never made the murder of or an attack on the President a Federal crime. Under existing Federal criminal law, title 18, United States Code, threatening harm to the President is a Federal offense (sec. 871), as is advocacy of the overthrow of the Government by assassination of any of its officers (sec. 2358). The murder of Federal judges, U.S. attorneys and marshals, and many other specifically designated Federal law enforcement officials is a Federal crime (sec. 1114); as is conspiracy to injure any Federal officer on account of, or while he is engaged in, the discharge of his official duty (sec. 372).

Notwithstanding these various criminal provisions covering other officials in Federal service, the Federal law today fails to assure full and complete Federal investigative and prosecutive jurisdiction over acts designed to harm the Chief Executive of the United States.

A primary advantage resulting from the enactment of this measure would be the assurance of clear Federal jurisdiction in the investigation and prosecution of Presidential assailants. Clear Federal jurisdiction in this area would minimize the conflict and confusion growing out of concurrent jurisdiction of Federal and State agencies. Enactment of this bill would mean that investigation of the acts covered and of any possibility of a future attempt would be conducted by Federal law enforcement officials. At present, Federal agencies participate only at the sufferance of local authorities. Enactment of the bill would also insure that the detention and protection of suspects accused of committing any of the acts against the President and Vice President would be under Federal control. A further value of such

legislation would be that suspects would be protected by Federal practices and procedures in their trial and prosecution.

A committee amendment provides that the Federal Bureau of Investigation shall have jurisdiction over investigations of violations of this act and such investigations be the fixed responsibility of one agency. From the standpoint of investigative experience and expertise the Federal Bureau of Investigation has demonstrated that it has the know-how and the talent to conduct these investigations. The Federal Bureau of Investigation has demonstrated through its present close association with police departments throughout the country that it is able to work in concert with all law enforcement agencies.

It is self-evident that the murder of the President of the United States is a crime against the National Government. The committee restricted the coverage of the bill to the President and Vice President, and, in the absence of the Vice President, to the officer next in order of succession. (The bill also applies to any individual acting as President under the Constitution and laws of the United States and during the period between election and inauguration, to the President-elect and the Vice-President-elect.) The committee considers it unnecessary to require that the hostile act occur while the victim is engaged in (or because of) the performance of official duties. The injury suffered by the United States as a consequence of an assault on any of the officers specified in the bill does not bear any relationship to the activities of the victim at the time of the assault nor to the motives of the assailant. In this connection, the committee adopts the following statement made by Senator George F. Hoar in the 1902 debate on legislation seeking to make the assassination of the President a Federal crime:

* * * what this bill means to punish is the crime of interruption of the Government of the United States and the destruction of its security by striking down the life of the person who is actually in the exercise of the Executive power, or of such persons as have been constitutionally and lawfully provided to succeed thereto in case of a vacancy. It is important to this country that the interruption shall not take place for an hour * * *.

This bill is designed to implement recommendations for a Federal criminal statute on the subject made in the "Report of the President's Commission on the Assassination of President Kennedy." After a thorough and painstaking investigation of the assassination of President Kennedy, the Commission urged that the Congress adopt legislation which would:

Punish the murder or manslaughter of, attempt or conspiracy to murder, kidnaping of and assault upon the President, Vice President, or other officer next in the order of succession to the Office of President, the President-elect and the Vice-President-elect, whether or not the act is committed while the victim is in the performance of his official duties or on account of such performance (at. p. 455).

There have been a number of efforts in the past to make the assassination of the President a Federal crime. All such efforts have failed. A number of bills were introduced immediately following the assassination of President Kennedy. Approximately 50 measures on this

subject have been introduced in the 89th Congress. A judiciary subcommittee of the House of Representatives conducted 2 days of hearings on May 26 and 27, 1965, in which the Deputy Attorney General and the Under Secretary of the Treasury, the former counsel to the President's Commission on the Assassination of President Kennedy, a representative of the American Bar Association, and congressional sponsors of this legislation appeared and testified.

The committee believes the need for this legislation is manifest and recommends the bill do pass.

ANALYSIS OF THE BILL

The bill would amend title 18 of the United States Code by inserting a new chapter 84 and a new section 1751—Presidential assassination, kidnaping, and assault; penalties.

Subsection (a)

This subsection would make the killing of the President of the United States, the President-elect, the Vice President, or if there is no Vice President, the officer next in the order of succession, the Vice-President-elect, or any individual acting as President, punishable by the penalties prescribed in sections 1111 and 1112 of title 18, United States Code.

Section 1111 provides the death penalty for murder in the first degree in the absence of a qualified verdict, or imprisonment for any term of years, or for life for murder in the second degree.

Section 1112 provides imprisonment for not more than 10 years for voluntary manslaughter, or imprisonment for not more than 3 years, or a fine of not more than \$1,000, or both, for involuntary manslaughter.

Subsection (b)

This subsection provides that the crime of kidnaping the President or other individual designated in subsection (a) be punishable by imprisonment for a term of years or for life. If death should result to the victim, then the death penalty would be permitted.

Subsection (c)

This subsection makes the attempt to kill or kidnap the President or other official designated in subsection (a) punishable by imprisonment for any term of years, or for life.

Subsection (d)

This subsection makes the conspiracy to kill or kidnap the President or other official designated in subsection (a) punishable by imprisonment for any term of years, or for life, with a permissible death penalty if the conspiracy results in the death of the victim.

Subsection (e)

This subsection makes an assault upon the President or any other official designated in subsection (a) punishable by a fine of not more than \$10,000, or imprisonment for not more than 10 years, or both.

Subsection (f)

This subsection defines the terms "President-elect" and "Vice-President-elect" as used in this section to mean such persons as are the apparent successful candidates for the offices of President and

Vice President, respectively, as ascertained from the results of the national general elections for electors of President and Vice President.

Subsection (g)

This subsection authorizes the Attorney General to pay rewards not exceeding \$100,000 for information and services concerning a violation of this section. The subsection also makes ineligible for such rewards Federal and local officials who furnish information or render services in the performance of their official duties.

Subsection (h)

This subsection provides that if Federal investigative and prosecutive jurisdiction is asserted for any of the prohibited acts, the exercise of jurisdiction by State or local authority shall be suspended until Federal action is terminated. In order to avoid opportunities for confusion and conflict accompanying concurrent Federal and State jurisdiction in this area, the subsection provides for unimpeded Federal jurisdiction to the extent necessary.

Subsection (i)

This subsection provides that violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

Section 2

This provision amends section 3486 of title 18, United States Code, the general immunity statute, by making the provisions of that statute applicable to grand jury or court proceedings involving any violation of this bill.

Under section 3486, only the U.S. attorney, upon approval of the Attorney General, is permitted to make application to the court that a witness, after invoking his privilege against self-incrimination, be instructed to testify or produce evidence. In such circumstances, section 3486 provides that the witness will not thereafter be subjected to criminal prosecution, except for perjury or contempt, on account of such compelled testimony.

Although the committee is reluctant to enlarge existing immunity provisions, it believes that successful detection and prosecution of offenses covered by this bill is of such national importance as to require immunity authorization in this area.

Attached hereto and made a part hereof for the information of the Senate is a listing of the general statutes providing the death penalty for violations thereof:

Atomic Energy Act—Violations and conspiracies to commit such violations (42 U.S.C. 2272, 2274, 2275, and 2276).

Bank robbery (robbery of a bank or savings and loan association resulting in the death or kidnaping of a person) (18 U.S.C. 2113(e)).

Espionage (committing or attempt to commit espionage and conspiring to do so) (18 U.S.A. 794).

Kidnaping, if the victim has not been released unharmed and conspiring to do so (18 U.S.C. 1201(a)(c)).

Killing certain Federal officers and employees (18 U.S.C. 1114).

Murder in the first degree within the special maritime and territorial jurisdiction of the United States (18 U.S.C. 1111).

Narcotics Control Act (furnishing narcotics to minors) (21 U.S.C. 176(b)).

Rape within the special maritime and territorial jurisdiction of the United States (18 U.S.C. 2031).

Trainwrecking, which results in the death of a person (18 U.S.C. 1992).

Treason (18 U.S.C. 2381).

Willfully damaging motor vehicles or aircraft, if death results to any person (18 U.S.C. 34).

Attached hereto and made a part of this report is a letter dated March 8, 1965, from the Attorney General of the United States to the Vice President, recommending the introduction of this legislation.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 8, 1965.

The VICE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend title 18, United States Code, to provide penalties for the assassination of the President or the Vice President, and for other purposes.

The assassination of President Kennedy and ensuing events focused attention on an anomaly in Federal law: it is not a Federal crime to assassinate the President of the United States, nor do Federal investigative agencies have absolute jurisdiction to investigate the assassination of a President. Following the death of President Kennedy, there was no clear basis for the exercise of Federal investigative jurisdiction, and when the assassin was apprehended, Federal authorities were unable to assert authority and take him into custody for questioning and safekeeping. The tragedy which resulted from this inability to act is too well known to require further detailing here.

There can be no doubt that a statute should be enacted to make it a Federal crime to kill the President or deliberately injure him in any way. The President is the one person through whom the executive branch of the Government operates. He is Commander in Chief of our military forces and is vital to the peace and safety of the country. Although every reasonable protective measure is taken to insure the safety of the President, the very nature of his office requires him to be exposed to unanticipated dangers. Accordingly, in view of the essential nature of the Office of the President and the hazards attendant to it, it is essential that it be a Federal crime to harm him or his immediate successor.

The enclosed proposal seeks to rectify the omission in Federal law by making it a Federal crime to kill, kidnap, or assault the President, the President-elect, the Vice President, or other officer next in the order of presidential succession, the Vice President-elect, or any individual who is acting as President. In addition, it makes it a Federal crime to endeavor or attempt, or to conspire, to kill, or kidnap any of the individuals designated. Two provisions are included to aid in the solution and prosecution of a violation of the proposed statute. One of these would authorize the Attorney General to pay rewards up to \$100,000 for information leading to the detection of any violator, while the other would authorize the compelling of testimony

concerning a violation and the granting of immunity therefor. Finally, to avoid any conflict between Federal and State jurisdiction, or any confusion as to whose authority shall control, a provision is included under which the assertion of Federal investigative or prosecutive jurisdiction under the proposed statute would preclude the exercise of jurisdiction by State or local authorities to such extent as the Attorney General of the United States directs.

The proposal was drafted to implement recommendations contained in the "Report of the President's Commission on the Assassination of President Kennedy." The Secretary of the Department of the Treasury joins me in submitting it to the Congress. It is the belief of both of us that the proposal would be an effective aid in preventing future acts of violence against the President, as well as in solving such crimes if they should occur. We believe that there is an urgent need for this legislation, and for these reasons, its early introduction and prompt consideration is requested.

The Bureau of the Budget has advised that there is no objection to the submission of this proposal from the standpoint of the administration's program.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

PART I.—CRIMES

	Sec.
* * * * *	
84. <i>Presidential assassination, kidnaping, and assault</i>	1751

Chapter 84.—PRESIDENTIAL ASSASSINATION, KIDNAPING, AND ASSAULT

Sec.

1751. *Presidential assassination, kidnaping, and assault; penalties.*

§ 1751. *Presidential assassination, kidnaping, and assault; penalties.*

(a) *Whoever kills any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President under the Constitution and laws of the United States, shall be punished as provided by sections 1111 and 1112 of this title.*

(b) *Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.*

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

(f) The terms "President-elect" and "Vice-President-elect" as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

(g) The Attorney General of the United States, in his discretion, is authorized to pay an amount not to exceed \$100,000 for information and services concerning a violation of this section. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State or local agency, including the Army, Navy and Air Force, any statute, rule or regulation to the contrary notwithstanding.

* * * * *

SECTION 3486—TITLE 18, UNITED STATES CODE

§ 3486. Compelled testimony [tending to incriminate witnesses; immunity.

* * * * *

(c) Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States *involving any violation of section 1751 of title 18 of the United States Code*, or involving any interference with or endangering of, or any plans or attempts to interfere with or endanger, the national security or defense of the United States by treason, sabotage, espionage, sedition, seditious conspiracy, violations of chapter 115 of title 18 of the United States Code, violations of the Internal Security Act of 1950 (64 Stat. 987), violations of the Atomic Energy Act of 1946 (60 Stat. 755), as amended, violations of sections 212(a) (27), (28), (29) or 241(a) (6), (7) or 313(a) of the Immigration and Nationality Act (66 Stat. 182-186; 204-206; 240-241), and conspiracies involving any of the foregoing, is necessary to the public interest, he, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except prosecution described in subsection (d) hereof) against him in any court.

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